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AN
ANSWER.
TO
Tentandum Est:

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BEING

Remarks on a *Scurrilous* Letter
lately published, highly re-
flecting on the Conduct of
The Right Honourable The
Lord Mayor, in respect of
his *Lordship's* Nomination of
Sheriffs.

By REAY SABOURN, Gent.

Ex tuo ipsius Ore te damnaho, Luc. 19. 22.

LONDON:

Printed for W. THORNE in *Great Carter*
Lane, near *Doctors Commons*. 1738.

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ANSWER

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Remarks on a Sermon Letter
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Lord Mayor, in respect of
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Speakers.

By RAY SABOURN, Gent.

For the Author One is demanded, Dec. 19. 1768.

L O N D O N .

Printed for W. THORNE in Great Britain
at the Sign of the Crown, 1768.



AN
ANSWER
TO
Tentandum Est, &c.



PATRIOT, the *rara avis* of the Age, scarcely sooner appears in these our Times of *Corruption* and *Degeneracy*, than he becomes an Eye-sore to the Generality of Mankind, especially the avowed Enemies to *Peace* and *Liberty*, who from an innate Principle of *Faction*, *Injustice* and *Oppression*, ever hold an *implacable* Hatred to *Patriotism*, and every other *Excellence* that tend to Public *Tranquility* and *Freedom*.

Whence we may easily account for the many unworthy and base Attempts of late, publickly made, to blacken and lessen the

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Esteem

Esteem of the present *Lord Mayor*, in the Eyes of the Citizens his Lordship most worthily presides over, as well as represents in Parliament. Vain and fruitless indeed have all Endeavours to wound the *invulnerable Character* of this *unbyassed Patriot*, hitherto been; and good Reason we have to believe, that all future Steps taken that way, will become in like manner unfruitful and abortive, in Spight even of *TENTANDUM EST*'s deep laid *Scheme*, for stirring up a *Party*, zealous to maintain their old Cause, *Faction* and *Discord*.

This Zealot, or rather *Tool* of a Party, in his late Epistolatory Address to the *Right Honourable the Lord Mayor*, which we have undertaken to answer, ushers in his rough Music with a short and somewhat agreeable *Air*, viz. a just, tho' brief *Encomium* on his *Lordship's* Character. He tells his *Lordship*, that *He has not only a very sincere Esteem for him, as a Gentleman of a worthy Character in private Life, but a very high Opinion of his Integrity and Prudence, as the chief Magistrate of this great and opulent City; and thinks his Behaviour in many Cases hath been such, as that his Lordship hath been exceeded but by few who have born the same honourable Office,*

Office, and that he is worthy of the Imitation of all who come after him.

Thus ends the Prelude. Here we must observe, that TENTANDUM, throughout the whole of this first *Paragraph*, expresses his Sentiments of his *Lordship's* worthy Character &c. in the present Tense, and at the very Time the subsequent Part of his Letter may be supposed to be penning; so that by comparing the first with the *Paragraphs* that follow, the *Insincerity*, or rather *Hypocrisy* of our Author, in Respect of his Sentiments delivered in the *introductory* Part of his Epistle, will evidently appear.

The first Paragraph he concludes with telling his *Lordship*, that he thinks him *worthy of the Imitation of all that come after him*. But in the second and several other of the Paragraphs which follow, he very frankly, and without any the least *Hesitation*, gives his *Lordship* to understand, that his Opinion of his *Lordship* is quite reverse to what he had, almost with the very same Breath, before pronounced it to be: And all this is done in Terms so harsh, and unbecoming to be offered to the Ear of a *Superior*, much more that of the chief Magistrate of this *Ancient and Great City*, that none but Men of

your little *narrow Minds* can possibly forbear, on the first View of such most unseemly Behaviour, to express their highest Resentment for the Indignity shown. In the preceeding Part of his Letter, our Author bestows on his *Lordship* the Dignity of little less than that of a *Non-pariel*; yet presently afterwards reduces him to be scarcely worthy the Title of an *inferior* Magistrate; and treats him accordingly. Here is a Contradiction in Terms indeed! Sincerity in Abundance! Barefacedness to Perfection! And the Evidence of a scrupulous Conscience into the bargain! This is the *Man* that would gladly be employed in the new Modelling (I should say Overturning) of our ancient *Constitution*; and who fired with Hopes of Success in that way, sticks not only in a most scurrilous Manner to call in Question, and highly reflect on his *Lordship's* Justice and Conduct; but likewise has the Presumption to attack, and openly condemn the ever worthily esteemed *Lord Chief Justice Holt*, on an Opinion solemnly delivered by his *Lordship* in the Court of King's Bench, when *Chief Justice* there.

Thus much may suffice as Remarks in general on *Tentandum's* elaborate Piece: And therefore we come now to descend
to

to Particulars, viz. to take under our Consideration the Arguments used by this Author, in support of his Charge, that *the Lord Mayor's late Nomination of five Dissenters for the Office of Sheriffs, with the Election thereon made, is unjustifiable, illegal and void.*

But by the way we must observe, that our Author all along, in his Arguments on this Point, begs the Question, and makes his Conclusion suitable thereto; gladly having it taken for granted, that by the *Corporation Act*, Dissenters are absolutely disqualified, and exempted from serving Offices of *Corporations*; the contrary of which we shall endeavour to make manifestly appear from the very Nature and Design of the Act itself; and in the End, doubt not to confute our Antagonist from his very Arguments, founded on the Authorities he adduces to support them.

The chief Design or Intention of the *Corporation Act*, 13. Car. 2. was (as we shall soon have Occasion by undeniable Authority to prove) *to establish a Succession of Persons well affected to the Government, and to bring Men to conform.*

Our Author's Observations on this Law, are three, viz. 1st. " That the Qualification for all Offices or Places relating to,
" or

“ or concerning the Government of Corporations, is by this Law declared to be taking the Sacrament of the *Lord's Supper* according to the Rites of the Church of *England*, within one Year next before such Election or Choice.

2dly. “ That no Person or Persons shall for ever hereafter be placed, elected, or chosen into any the Offices or Places aforesaid, who is not thus sacramentally qualified.

3dly. “ That in Default of such sacramental Qualification, every such Placing, Election and Choice is *enacted and declared void.*”

From these Observations, our Author draws this forced Conclusion, viz. That all *Corporations* are prohibited to choose into any of their Offices, Persons that have not qualified as already mentioned; and that by Consequence, the *Election* of such a one is *illegal and unjustifiable*, is contrary to *Act of Parliament*, and declared to be absolutely void. He then runs on, entirely relying on the Strength of this *erroneous* Conclusion of his, and thence positively affirms, that no *Corporation* can legally choose a Person, not *sacramentally* qualified; and if they do, it is contrary to *Law*, and their *Choice* is absolutely void: Where-

Wherefore, that his *Lordship* could not legally nominate any one of the five Dissenters, as a fit Person to serve the Office of Sheriff; for this Reason, because that Office is relating to and concerning the Government of the City.

Here we might very easily stop our Author's Career, by putting the whole Matter in Dispute upon this Issue, *viz.* Whether the Office of Sheriff is relating to or concerning the Government of the City, or not; for if not, then it will naturally follow, that it is not an Office included or intended in the Corporation Act: The Consequence to be gathered from which is very obvious. A Magisterial Officer, a Sheriff is not. Ministerial he is. For a Sheriff, in our Law Books, is said to be *an ancient Officer, and a Minister of the King's Courts of Law and Justice, and is to attend at those Courts and execute their Processes, and make due Returns thereof.* Vid. Pract. Reg. p. 510.

This Digression we made chiefly for the sake of convincing our Author of his Rashness in engaging in Topics he seems to be an utter Stranger to. *Ne Sutor ultra Crepidam*, may be a proper Caution to him for the Time coming; and as a Pillar of the Party or *Seet* he owns himself to belong

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to, engage him more closely to his Duty of affording some seasonable Discourses against the reigning Vices of the Age, such as *Freethinking, Corruption, Adultery, &c.*

But to return from whence we digressed. The Words *no Person or Persons shall for ever hereafter be placed, &c.* can never bear the strained Construction our Author puts upon them, *i. e.* to imply a Prohibition of electing Persons to serve in Offices of *Corporations*, who have not conformed to the Terms of the *Corporation Act*. Such an Explanation we say can never hold; for that would be making the Act inconsistent with itself, by encouraging Persons to persist in their *Nonconformity*, for the sake of avoiding Offices of Burthen and Charge, instead of bringing them to *conform*, which was, as has been already hinted, the main Drift and Design of this Law. Was it otherwise, it could not fail of being a Means, and a great one too, of increasing considerably, rather than in the least decreasing the Number of *Nonconformists*. The Application is plain and easy.

As to the Words, *every such Placing, Election and Choice is enacted and declared to be void*, they can in no Respect answer our Author's Purpose, seeing that the *Disanullity declared*, could never be intended

to

to extend in Favour of the *Nonconformist*; but on the contrary, is *enacted* purely for the Sake and Security of the *Commonality* or *Members* of every *Corporation*, who doubtless in some Cases, where grieved by a *disqualified* Person's being elected into Office, may take the Advantage of his *Disability*, and thereby get such Person discharged and acquitted therefrom. But this Benefit the elected *Nonconformist* cannot obtain to himself, since *no Man can take Advantage of his own Disability*, as we shall hereafter have Occasion to make appear.

By this time we hope our Reader is convinced, that the Conclusion or Consequence drawn by our Author, from his Observations on the *Corporation Act*, cannot possibly hold good; and if so, this being the chief and only Foundation of the whole Work, the Superstructure of Arguments thereon built, must of course fall. But our Author indeed seems to *buoy* himself up with a quite different Notion; for looking upon his Arguments, as may be supposed, to be unanswerable, he immediately in an audacious, and almost daring Manner, insults his Lordship, and his worthy Fellow Citizens, expressly telling them, that no *Dissenter is obliged to regard the City's*

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Choice

*Choice, any more than he is obliged to regard or submit to any other illegal Action of any Person or Persons whatsoever : And this factious Doctrine, unsound as it is, our Author endeavours to establish, by insisting that a Dissenter, if he be a good Citizen and Subject, is obliged to pay that Defe-
 rence to the Laws of his Country, as to re-
 fuse absolutely that Office for which those
 Laws have disqualified him. Here is a sham
 Obedience, by one and the same Mouth,
 preached up in Justification of Disobedi-
 ence in Fact ! And by whom pray ? Why,
 by no Saint you may swear, from the
 Teacher's Ludicrous, or rather Atheistical
 Manner of punning now and then upon
 the Words Conscience and Sacrament. This
 is nothing but a Wolf in Sheep's Cloath-
 ing ; none of your sanctified Sort of Men,
 but quite the Reverse ; and therefore de-
 clines all Claim to Rule, since, you know,
 the Saints are only to bear Rule !*

*We come now to examine a little into
 the Authorities our Author has adduced in
 Support of his Arguments used, to main-
 tain his Charge against his Lordship. The
 first Authority he brings upon the Stage,
 is the Case of Clark, reported by Ventriss,
 from which our Author observes, that
 Case hath been solemnly heard, debated and
 deter-*

determined in the Court of Exchequer; and that therefore it remains on Record as a stated Rule, that no Dissenter who hath not received the Sacrament within one Year before his Choice into any Office, is capable of such Choice. We cannot here refrain charging our Author with the greatest Partiality and Injustice, in delivering this Case by Halves as he hath done; and thereby endeavouring to impose upon and deceive the Public, by giving them to understand, that the Determination went in the Favour of Clark, purely on the Merits of the Exemption pleaded by him on the Corporation Act. This we positively affirm, and will directly prove from *Ventris* himself, the very Author *Tentandum* has unfairly quoted for his Authority, to be manifestly false. I hope our Author will excuse the Freedom of the Expression.

Ventris after having reported, that the Court held, that the Matter pleaded by the Defendant Clark, was a good Bar, for the Reasons mentioned in our Author's Piece, proceeds thus, viz.

“ There were also two Exceptions taken to the Declaration. 1st. The By-Law is said to have been, that if any Inhabitant should be chosen; whereas they cannot make By-Laws to bind all

“ the Inhabitants of the Town ; but only
 “ the Freemen or Members of the *Corpo-*
 “ *ration*.

2dly. “ The Usage is set forth, that the
 “ Election should be *Die lunæ proxime post*
 “ *festum Sancti Michaelis Archangeli*, and
 “ the Election of the Defendant is alledged
 “ to be upon the *Monday*, and that the
 “ Court cannot take Notice of it, or con-
 “ sult the *Almanack*, as this Case is, where
 “ it ought to be set forth in pleading.

“ And the Court held these Matters
 “ incurable, and so judgment was given for
 “ the Defendant” --- Vid. *Vent.* II. p. 248.

Thus have we plainly proved, in direct
 Contradiction to what our Author hath
 declared, that the *Determination* of the
 Court in *Clark's* Favour, chiefly proceeded
 from *Misprisions* in the Pleadings; for
 says *Ventris*, and so Judgment was given,
 &c.

The next Authority produced by our
 Author, is the Case of *Larwood*, reported
 in the *Moden Reports*, Vol. 4. p. 269. &c.
 Here again we catch our Author at his ac-
 customed Method of endeavouring to
 hoodwink his Readers, by making the Ar-
 guments of the *Lawyers* concerned, par-
 ticularly in the Case before Us, pass for the
Opinion and *Determination* of the Court,
 This

This our Author's *Imposition* or *Falsehood*, we shall evidently make appear from the Reports themselves, from whence he has picked out what, and only what he judged would best serve his Turn, in the Case before Us. This little mean, and unfair way of quoting *Authorities*, is ill-becoming any that professes to be an Author. That base underhand Practice would hardly be allowed by a *Petty* Scribler.

Salkeild, whom, in this Case of *Larwood*, our Author quotes for Justice *Samuel Eyres*'s Opinion delivered in Court, and which was over-ruled, reports what honest *Tentandum* took care to conceal, viz. That the Judgment of the Court was,
 " That no Man can take an Advantage
 " of his own *Disability*; no Man can
 " plead he is a Fool, or *Non compos mentis*;
 " but if a *Non compos mentis* is indicted,
 " the Judge must acquit him *ex officio*;
 " for the King takes care of all such Persons;
 " but if a Man is disabled to bear
 " an Office, he is excused, *nam judicium*
 " *redditur in invitum*: Yet where he may
 " remove the *Disability*, as in Case of
 " *Excommunication*, he shall take no Advantage
 " of this *Disability*; so in this
 " Case: For which, Judgment was given
 " against

" against the Defendant" — *Vid. Salk. Rep.*
p. 168.

Our Author indeed has for once, with some Difficulty, done the Justice to own, that Judgment passed against *Larwood*, but upon what real Grounds the same was founded, he desires to be excused from informing his Readers, well contenting himself with having told them what Chief Justice *Holt*, and Justice *Giles Eyre* held as their Opinion on the Case; and then concludes, *and therefore Judgment was given against Larwood.* In the *Modern Reports* which our Author, in this very Case quotes, the Judgment against *Larwood* is recorded after a quite different Manner. For it is there said, " Judgment
" was given for the Plaintiff, viz. That
" the *Corporation Act* never designed to
" exempt the Dissenters from bearing
" Offices in the *Government*, but to establish a Succession of Persons who were
" well affected to it; for otherwise it
" would be an Encouragement for some
" Men to persist in their *Nonconformity*,
" on Purpose to avoid Offices of *Burthen*
" and *Charge*, instead of bringing them
" to conform, which was chiefly intended
" by that Statute". (*meaning the Corporation Act.*)

" 'Tis

“ 'Tis a Fault in the Defendant not to
 “ have received the *Sacrament* at least
 “ once a Year, because by the *Canon Law*;
 “ which hath been received here Time
 “ out of Mind, he is obliged so to do;
 “ and therefore it is very absurd to alledge
 “ as an *Excuse*, what is really a Neglect
 “ of his *Duty*.

“ If he had been disabled by Judgment
 “ in Law, he might have been excused;
 “ for tho' his Fault or Neglect was the
 “ Occasion of such Judgment, yet it is a
 “ Mark set upon him by the *Government*.

“ But in Case of an *Excommunication*
 “ where he may remove the *Disability*,
 “ there he shall not be excused.

“ Then as to the Pleading, he doth not
 “ say, that he could not receive the *Sa-*
 “ *crament* &c. for the sake of his *Consci-*
 “ *ence*; supposing then a Man before the
 “ Act of *Indulgence* of 1. *W.* and *M.* had
 “ neglected, or omitted to receive the same
 “ within a Year before his Election to an
 “ Office, no Man will say, that it should
 “ have excused him.

“ The Defendant therefore should have
 “ pleaded in *Bar*, that he was a Dissenter
 “ from the Church &c. and then brought
 “ himself within the Compass of the Act
 “ of *Indulgence*, of which the Court can-
 “ not

“ not take any Notice, because 'tis a *private*
 “ *Act*; for before it was made, the
 “ Law did not take any Notice of *Pro-*
 “ *testant* Dissenters, but only of Dissen-
 “ ters in general; besides, 'tis an *Act*
 “ which doth not extend to all Sorts of
 “ *Protestant* Dissenters, but only to such
 “ who shall qualify themselves as therein
 “ is prescribed.

“ If therefore the *Act* of *Indulgence* is
 “ a *private* Law, then the *Corporation*
 “ *Act* will not be a sufficient Excuse for
 “ the Defendant to be exempted from this
 “ Office, because the *Act* never intended
 “ to excuse him who was liable before;
 “ it was not made in *Favour* of Dissen-
 “ ters; it intended to make Persons qualify
 “ themselves the better to serve the *Go-*
 “ *vernment*, in establishing *faithful* Offi-
 “ cers therein; and ever since the making
 “ of that Law, when a Freeman, who
 “ was a Dissenter, was chosen an Alder-
 “ of a *Corporation*, he never insisted on
 “ the *Act* as an Excuse, but submitted to
 “ a *Fine*, and so must the Defendant.

“ But one Judge (and the *Lord Keeper*,
 “ as it was said at Bar) being of a con-
 “ trary Opinion, *viz.* That the Defen-
 “ dant was sufficiently punished by the
 “ *Corporation Act*, in being disabled to
 “ hold

“ hold any Office or Employment
 “ of Profit ; and now to punish him
 “ by an Information, would be a dou-
 “ ble Punishment for one Offence,
 “ which the Law will not allow; there-
 “ fore there being a *Capias* against the
 “ Defendant *pro fine*, and he now
 “ appearing in Court, he was fined
 “ five *Marks* and no more.” Vid.
 Mod. Rep. p. 273.

Thus ends the Account reported to
 us of the Judgment against *Larwood*,
 which in Justice to our Readers, as
 well as in Support of our present Un-
 dertaking, we have thought proper to
 transcribe *Verbatim*, as we find it re-
 corded in the Reports, to which both
 our Author and we have referred.

The next thing that falls under our
 Consideration, is the Observations of
 our Author on the two Cases already
 quoted. In the first of these, we can-
 not help charging him with the Asser-
 tion of a manifest Falshood, *viz.*
That the Court determined that Clark's
Election was absolutely void, as probi-
bited by the Corporation Act. To be
 convinced that our Author is culpable
 in this Point, our Reader need but cast

an Eye once more on what we have already quoted from *Ventris* on that Head. As to his Observation in *Larwood's Case*, we cannot possibly agree with him in it, since we must insist, that the Smallness of the *Fine*, which our Author says, was in reality remitting the whole *Fine*, was not, as he pretends, in Consideration of the *Authorities* against Chief Justice *Holt*, and the other Judge that held in Opinion with him; for no such *Authorities* there were. This Mistake of our Author if not wilful, entirely proceeds from his taking over-ruled Opinions for *Determinations*, which can never pass for *Precedents* or *Authorities* with any of tolerable Knowledge. The *Opinions* of the Judge and Lord Keeper, in this Case, contrary to that of the Court, was no *Authority*, and therefore could go for nothing further, than that very probably it might induce the Court, by way of Compliment to those two Gentlemen, to inflict on *Larwood* so small a *Fine*: Large enough however to fix the *Determination*, as a *Precedent* and good *Authority* for future Ages. It is

is not the Largeness nor Smallness of a *Mulct* that establishes a *Conviction*, but the *inflicting* it.

Our Author well perceiving, that his Observation on the Judgment against *Larwood* could turn to little or no account, on his Side of the Question, hath, for several Pages together, taken a great deal of Pains to traduce the *Justice* and *Memory* of that great Lawyer, the Lord Chief Justice *Holt*; and by an Addition of Arguments, rather quibbles indeed, of no greater weight than those that have already been offered on the *Point* in Dispute, and scarcely to so good Purpose, would gladly have the *Determination* of his Lordship and the Court, in that Case made, to go for nothing, and his own private *Sentiments* to be established in its room. To this End, after taking the Liberty of making several Remarks, or rather unbecoming Reflections upon Chief Justice *Holt's* Reasons delivered from the Bench, our Author resumes his old way of begging the Question, and drawing Conclusions suitable to his Purpose; and by this means in the End, sets up his own private *Opinion*, as the

Standard, to stand in Competition with, and over-balance all the *Authorities* hitherto adduced against him.

We, on the other Hand, entirely rely on the Strength and Validity of the *Authorities*, or *adjudged* Cases already quoted, and desire, throughout the whole of our present Undertaking, to stand or fall by them. It would therefore argue a great Diffidence or Distrust in this our Strength, as well as Weakness in our selves, should we submit to enter into fresh Arguments on *Points* that have already been debated and determined, with *Solemnity*, by Persons of much superior Knowledge, Judgment and Rank, than either our Author or we can pretend to be. How far it may be allowable in public to call in Question and condemn a *Determination* of a Supreme Court, we cannot say; but thus much we may venture to affirm, that an Attempt of that Kind offered in the Court itself, would not easily pass without Resentment. And thus much we think may be more than sufficient to answer all our Author's *Jargon* from pag. 18. to 28.

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The next thing that offers itself to our View, are two trumped up *Authorities* which our Author ushers in thus, viz. *Besides these two Cases already considered* (meaning *Clark's* and *Larwood's*) *I beg Leave, my Lord, to mention two others, principally for the sake of the great Authorities they are attended with:* And what are these two great Authorities pray? Why truly, nothing else than two *extrajudicial* or *private* Opinions delivered by two learned Gentlemen in the Law, on two particular Cases.

One of these Cases our Author tells us (for we have no other Authority than his own for it) is in relation to one *Wigginton* and others of *Exon*, who were *fin'd* by that City in sixty Pounds, for refusing to serve the Office of *Bailiffs*; and on that Account it seems, applied to an *Eminent* Council for Advice, who gave his Opinion in their Favour. Thus stands this Case stated and reported by our Author. The Result we are told was, that *the Corporation moved by very good Reasons* (but what we are not given to understand) *did not think fit to prosecute the Suit* (as well

well they might where none was depending) and never called on the Gentlemen for their Fines.

The other Case is that of one *Shackleton*, who, our Author informs us, was fined in 150 l. by the City of *York*, for not standing *Sheriff*; on which he says a worthy Council was consulted, who gave his Opinion in Favour of *Shackleton*. Then our Author concludes with telling us, that the Corporation of *York* thought proper, for certain good Considerations (only known to himself we may suppose) to remit the said Fine; nor would the Court (our Author can tell you best what Court he means) before which the Affair was tried, impose any other Penalty upon him, alledging that would be to punish him twice for the same Fault.

Here are great Authorities indeed! No less than two private Opinions set up to counterballance adjudged and determined Points! And to mend the Matter, our judicious Author's Reports, in Opposition to those of *Salkeild &c*!

The last and only Refuge our Author has now left to fly to, is his old Friend and Protector, the *Toleration Act*, as he calls

calls it. This Law doubtless *ab initio* was intended for a Benefit, and a great one too, to Dissenters from the Church of *England*; and has even by themselves been esteemed as no small *Indulgence*, yea by the greatest Part of their Teachers (if we may give Credit to what they say) acknowledged to be no less than a *Blessing* conferred upon them. We could gladly wish they would still deem it such, and not abuse the *Indulgence* granted, as too many of late have endeavoured to do, who having got an *Inch*, want to take an *Ell*; and so by degrees would extend this their *Indulgence* beyond its just Bounds, and in Consequence put themselves upon an equal *Lewel*, in Respect of Privilege, with the Members of that Church from whence they at present dissent.

We readily agree with our Author, that the Act of *Indulgence* exempts Dissenters from all *pecuniary* Penalties as well as Church *Censures*, for not coming to Church, or not receiving the *Sacrament* there; and in that Respect the Statutes, 1 and 23. *Eliz.* respectively enacted them to be imposed, are by this Act, *quoad* the Dissenters so far repealed.

pealed. This is all the *Exemption* the Dissenters are entitled to from the Act of *Indulgence*. Nevertheless we see our *discontented* Author, meerly upon his own *Authority*, endeavouring to extend this *Exemption* much further, by insisting that, *as the Dissenters are by the Toleration Act, exempted from the Necessity of coming to Church, they cannot imagine themselves under any Obligation of doing it, nor that they are liable to any Fine for not doing it; and therefore not liable to any Fine from any Corporation in England; because this would be evading the Intention of the Toleration Act, which was to free them from the Penalties of Nonconformity.* And what are these Penalties? Why, none but what have been already mentioned, *viz.* The *Pecuniary Penalties* and *Church Censures* respectively enacted by 1. and 23. *Eliz.* to be imposed on *Nonconformists*. This Act of *Indulgence* does not take Notice, or dispense with any Act whatsoever other than those two, 1. and 23. *Eliz.* for the Proof of which we refer to the *Toleration Act* itself.

The Case being thus, it cannot but appear very evident, that the Design of the

the *Corporation Act*, viz. *Not to exempt Dissenters from bearing Offices in the Government, &c.* remains in *Statu quo*, and in no wise affected by the *Act of Indulgence*. Besides, this is only a *private Act*, as hath already been proved by the Determination in *Larwood's Case*; and for that Reason, and as it contains no *dispensing* Clause in regard to the *Corporation Act*, which is a *Public Law*, it cannot possibly, in the Point in Dispute, stand in *Competition* with that Law, so as to exempt or excuse *Nonconformists* from serving Offices of *Corporations*; and consequently such Persons refusing to serve, are liable to be fined pursuant to the By-Law of the *Corporation*, as well as any other of its Members are in the like Case.

To conclude this Head, if Dissenters, whose *scrupulous* Consciences, or rather Obstinacy and Perverseness, will not allow them to answer the wise and wholesome Ends of the *Corporation Act*, would avoid being subject to the Difficulties our Author complains of, why do they expose themselves thereto, by becoming Members of a *Corporation*, when they know, as such, and

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not

not before, they are rendered subservient to the By-Laws made by the same, and consequently liable equally with all the other Members to serve the Offices of that Corporation, and on refusal, to be punished in the Terms of those By-Laws? The *Nonconformist* cannot be ignorant, that before he thus becomes a Member, he is not eligible into any Office of a *Corporation*, and in consequence, is not then liable to answer the Ends of the *Corporation Act* by *prostituting* the *Sacrament*, as our Author rashly is pleased to call it; and therefore, if he does once become a Member of a *Corporation*, it is his own voluntary Act, and not the Unreasonableness or Severity of any Law, that exposes him to the Difficulties complained of. If so, wherein is the *Persecution* our Author charges the Church of *England* with? Wherein the *Partiality* and *Injustice*, the inconsistent Acts of *Honour* and *Equity* by him charged on the *Lord Mayor*? And lastly, wherein appears, throughout the whole of his Lordship's Conduct, violently attacked by our Author, any Inconsistency with the Principles of *Liberty* and
Right

Right of Society? None of all these hath our Author, notwithstanding the great Clamour, Turnings and Windings by him made, been able to make good.

Hence we may easily guess at the whole Drift of our Author's Performance, which doubtless was, as much as possible, to render the Name of a *Barnard* less *amiable* to his Fellow Citizens, and by that means the more easily to gain a Party, *zealous* and *forward* to espouse a second Application to *Parliament*, tho' in a different Shape, for turning our ancient *Constitution* topsy turvy, in order to engage a *discontented* and *restless* Set of Men, if possible, to become good Subjects: For without that great Point be gained, he gives us to understand, that he and his Party must still persist in their *Disobedience*. *Remove the Incapacity*, he says, and they will do any thing, which in plain *English* is telling us, that we must either totally, or in effect repeal the Corporation Act, and consequently suffer Presbyterians, Independants, Anabaptists, Quakers, *Muckletonians*, and all other *Sects*, of what Denomination soever, even Papists and Jews, to be

put upon an equal Footing, in Point of *Priviledge* and *Right*, with the *Members* of the Church of *England*, or otherwise we must not expect our Author or his Adherents to become *obedient*. This pernicious *Scheme* or *Design* of our Author, deep laid as it is, we apprehend cannot possibly ever take Effect, so long as the true *Old English Blood* remains among us; and therefore in the End must of Course dwindle into nothing; for *the Hypocrites Hope shall perish*, Job 8. 13.

From the whole of what hath been offered, we doubt not the *impartial* Reader is convinced of the Legality of his *Lordship's* Nomination of the five Dissenters for the Office of Sheriffs; and consequently that the Citizens Election and Choice, in that Respect made, is both legal and justifiable, while, on the other Hand, our Author's bitter Charge against his *Lordship*, remains entirely malicious and groundless. The *Fine* therefore inflicted on the Gentlemen for refusing to serve that Office, being regulated and warranted by the *By-Laws* of this *City*, must of Course appear to be no less than a Piece
of

of common Justice acted by his *Lordship* towards his Fellow Citizens in general; since by that means his *Lordship* hath opened a Door in a great measure to answer the Design and Spirit of the *Corporation* Act, by obliging *Nonconformists*, being Freemen, to bear the Burthen and Charge of *Public* Offices, or submit to the Consequence on Refusal to serve, in common with all other Members of this City; which doubtless must terminate greatly to the Ease and Advantage of such as are of the Communion of the Church of *England*, on whom that Load hath too often been solely imposed. This we say is opening the Door of *Equality* and *Justice*, and not of *Oppression* or *Persecution*, as our Author would have us believe; for so long as a *Corporation*, in Respect of her Members, keeps up to, acts, and is regulated by her particular By-Laws, not inconsistent with the Laws of the Land, she cannot well be chargeable either with *Partiality* or *Injustice*. And that his *Lordship*, in Regard to the Nomination and Fine complained of, hath in all Respects been regulated by the By-Laws of this City,

City, will plainly appear from the following Act of Common Council, held the 22d. of *October* 1703. entituled,
 “ *An Act to impower the Lord Mayor*
 “ *for the Time being, to nominate one or*
 “ *more Person or Persons to be Sheriffs*
 “ *of the City of London, and County*
 “ *of Middlesex, for the Year ensuing,*
 “ *which Act runs thus, viz.*

“ Whereas several Disputes have
 “ arisen about the Method of Electing
 “ Sheriffs of the City of *London* and
 “ County of *Middlesex*; for avoiding
 “ whereof in Time to come,

“ Be it hereby Declared and Enacted
 “ by the Right Honourable the Lord
 “ Mayor, the Right Worshipful the
 “ Aldermen his Brethren, and the
 “ Commons of the said City in Com-
 “ mon-Council assembled, That the
 “ Right of Electing Sheriffs for the
 “ City of *London* and County of *Mid-*
 “ *dlesex*, is, and shall be, in the Livery-
 “ men of the several Companies of
 “ this City in Common-hall assembled.

“ Be it also further enacted by the
 “ Authority aforesaid, That it shall
 “ and may be lawful for the Lord
 “ Mayor of this City for the Time
 “ being,

“ being, from and after the fourteenth
 “ Day of *April* unto the fourteenth
 “ Day of *June* in every Year, to No-
 “ minate, in the Presence of Six Alder-
 “ men of the said City, a fit and able
 “ Person, being a Freeman of this
 “ City, for Sheriff of the said City and
 “ County of *Middlesex* for the Year
 “ ensuing, to commence at the Vigil
 “ of Saint *Michael* the Archangel next
 “ after such Nomination : And if such
 “ Person so Nominated, shall, within
 “ six Days after Notice thereof given
 “ him, or left in Writing at the last
 “ Place of his Abode, pay to the
 “ Chamberlain of this City for the
 “ Time being, for the Use of the
 “ Mayor and Commonalty and Citi-
 “ zens of this City, the Sum of four
 “ hundred Pounds of lawful Money
 “ of *England*, each and every Person
 “ or Persons so Nominated by the Lord
 “ Mayor, and paying as aforesaid the
 “ said Sum of four hundred Pounds,
 “ shall be, and is hereby exempted and
 “ discharged from serving the said Office
 “ of Sheriff of *London* and County of
 “ *Middlesex* for three Years from thence
 “ next ensuing, and shall not be liable
 “ to

“ to be again Nominated by any suc-
 “ ceeding Lord Mayor.

“ And be it further Enacted, That
 “ after the Expiration of the said fix
 “ Days, it shall and may be lawful to
 “ and for the Lord Mayor of this City
 “ for the Time being, to Nominate
 “ and Appoint one other fit and able
 “ Person, being a Freeman of this
 “ City, to be one of the Sheriffs of
 “ the said City and County of *Mid-*
 “ *dlesex* for the Year ensuing, to com-
 “ mence as aforesaid, who, upon like
 “ Payment of the said Sum of four
 “ hundred Pounds to the Use aforesaid,
 “ shall in like manner be, and is hereby
 “ exempted and discharged for the
 “ said Term of three Years from serv-
 “ ing the said Office, and from being
 “ again in like manner Nominated by
 “ any succeeding Lord Mayor, and so
 “ *toties quoties* as the Lord Mayor of
 “ this City shall think fit to Nominate
 “ between the said fourteenth Day of
 “ *April*, and fourteenth Day of *June*
 “ in every Year.

“ And be it hereby further Enacted
 “ and Ordained by the Authority afore-
 “ said, That if any such Person or
 Persons

“ Persons so Nominated as aforesaid
 “ by the Lord Mayor for Sheriff of
 “ this City, and County of *Middlesex*,
 “ shall, after Notice thereof given or
 “ left as aforesaid, refuse or neglect to
 “ pay unto the Chamberlain of *Lon-*
 “ *don* for the Time being, the said
 “ Sum of four hundred Pounds, to
 “ the Use of the said Mayor and Com-
 “ monalty and Citizens, within the
 “ Time above limited, then such Per-
 “ son or Persons shall, at the next Com-
 “ mon-Hall summoned for the Election
 “ of Sheriffs of the said City of *Lon-*
 “ *don* and County of *Middlesex*, be
 “ the first Commoner or Commoners
 “ put in Nomination, and in the same
 “ Order as Nominated by the Lord
 “ Mayor: And in case such Person or
 “ Persons shall be then and there, or
 “ at any time afterwards, duly Elected
 “ Sheriff of the said City and County,
 “ and shall refuse or neglect to take
 “ upon him the said Office, or to be-
 “ come bound so to do, or otherwise
 “ discharge himself according to the
 “ Laws and Ordinances of this City,
 “ such Person or Persons shall forfeit
 “ and pay six hundred and twenty
 “ Pounds of lawful Money of Eng-
 “ land

“ *land*, to the Use of the Mayor and
 “ Commonalty and Citizens of the
 “ said City, to be recovered in the
 “ Name of the Chamberlain of the
 “ said City, by Action or Bill of Debt
 “ Original, to be commenced and pro-
 “ secuted in any of the Courts of Re-
 “ cord of the Queen’s Majesty, her
 “ Heirs and Successors, within the said
 “ City.

“ Provided, That nothing in this
 “ Act contained, shall extend, or be
 “ construed to extend, to take away
 “ or diminish the Payment of the Sum
 “ of twenty Marks, to be employed
 “ towards the Maintenance of the
 “ Ministers of *Newgate*, *Ludgate*, and
 “ the *Two Compters*, pursuant to an
 “ Act of Common-Council made the
 “ sixteenth Day of *December*, in the
 “ Year of our Lord, One thousand six
 “ hundred fifty and six.”

From this Act of *Common-Council*
 we need only observe, that, as neither
 his Lordship, nor any other Lord Mayor
 of this City for the Time being, is in-
 vested with a Power of dispensing with
 that *Law*, or of mitigating the *Fine*
 thereby imposed, it is simply impossible
 for such Chief Magistrate, when in
 exacting

exacting such *Fine*, he does not exceed the Sum limited, to be chargeable in that Respect, either with *Partiality*, or, as our Author unjustly terms it, *forcing Money out of his Fellow Citizens Pockets*. But to bring this whole Matter to a short Conclusion, we must observe, that as the Gentlemen, whose Cause our Author so strongly espouses, have not in the least pretended to plead any *Defect* or *Insufficiency of Wealth*, by way of Exemption or Excuse from serving the Office of *Sheriffs*, so consequently have *tacily* acknowledged their *sufficient Qualification* for that Office, and of course are subject, in the Terms of the said Act of *Common Council*, either to serve or pay the Fine thereby imposed. Had those Gentlemen indeed pleaded a *Defect of Qualification* to serve, in Excuse of not serving, they doubtless must and would have been exempted on the Terms specified in an Act of *Common Council* holden the 3d. of *February*, 1737. Entituled *An Act to alter and amend an Act of Common Council made in the Mayoralty of Sir Robert Ducey, Knight and Baronet, in the seventh Year of the Reign of King Charles the First, relating to the Choice,*

Election and Confirmation of Sheriffs of the City of London and County of Middlesex: A Transcript of which said Act follows, viz.

“ Whereas by a Clause in an Act of
 “ Common Council, made the twentyeth Day of July, in the seventh
 “ Year of the Reign of King Charles
 “ the First, in the Mayoralty of Sir
 “ Robert Duncy, relating to the Choice,
 “ Election, and Confirmation of Sheriffs of this City and County of
 “ Middlesex; It was among other
 “ Things enacted in the Words following, viz. That no Freeman of the
 “ said City, so to be chosen or elected
 “ (as in the said Act is prescribed) shall
 “ be discharged or exempted from the
 “ Execution of the said Office of Shrivality, by Supposition or Excuse of
 “ Defect or Insufficiency of Wealth, except he will take his Corporal Oath
 “ before the Lord Mayor and greater
 “ part of the Aldermen, in open Court of
 “ the Lord Mayor and Aldermen for
 “ the Time being, that he then is not
 “ of the Value of 10,000 Pounds in
 “ Lands, Goods, and sperate Debts;
 “ and do likewise bring with him six
 “ other Citizens, Freeman of the said
 “ City,

“ City, of good Credit and Reputation,
 “ such as the Court of Lord Mayor and
 “ Aldermen for the Time being, shall
 “ allow, who shall likewise voluntarily
 “ testify upon their Corporal Oaths, that
 “ in their Consciences they believe that
 “ the said Person so to be chosen or elect-
 “ ed Sheriff, hath deposed and sworn truly
 “ concerning his Value as is aforesaid.

“ Which said Clause, by the Diffe-
 “ rence of the Value of Money at the
 “ Time of making the said Act and
 “ the Time present, and by many Ac-
 “ cidents and Circumstances which
 “ have intervened in so great a Length
 “ of Time, is become inconvenient,
 “ the Sum of 10,000 Pounds being
 “ by Experience found to be an in-
 “ sufficient Qualification, in respect to
 “ Wealth, for a Citizen of this City
 “ to serve the said Office of Sheriff
 “ of this City and County of Middle-
 “ sex.

“ Be it therefore Enacted by the
 “ Right Honourable the Lord Mayor,
 “ the Worshipful his Brethren the Al-
 “ dermen and the Commons in this
 “ present Common Council assembled,
 “ That from and after the twenty fifth
 “ Day of March next ensuing, no
 “ Freeman

" Freeman of the said City to be cho-
 " sen or elected Sheriff of the City o-
 " f London and County of *Middlesex*, in
 " manner in the said in part recited
 " Act (or in or by any other Act or
 " Acts of Common Council now sub-
 " sisting) prescribed, specified, or de-
 " clared, shall be exempted or excused
 " from the said Office of Shrivalty by
 " Supposition or Excuse of Defect or
 " Insufficiency of Wealth, except he
 " will voluntarily take his Corporal
 " Oath before the Lord Mayor and
 " greater part of the Aldermen, in the
 " open Court of the Lord Mayor and
 " Aldermen for the Time being, that
 " he then is not of the Value of
 " 15,000 Pounds in Lands, Goods,
 " and sperate Debts; and do likewise
 " bring with him six other Citizens,
 " Freemen of the said City, of good
 " Credit and Reputation, such as the
 " Court of Lord Mayor and Aldermen
 " for the Time being, shall allow, who
 " shall likewise voluntarily testify upon
 " their Corporal Oaths, that in their
 " Consciences they believe the said Per-
 " son so to be chosen or elected Sheriff,
 " hath deposed and sworn truly, con-
 " cerning his Value as is aforesaid.

We

We have nothing more to add, than that we heartily wish the *worthy* Citizens of this Ancient and Great City may ever be watchful, and upon their Guard, against all Attempts tending to the Disturbance or Prejudice of her *Tranquility* and *Welfare*; and that she may ever remain, as a certain Author observes she must be acknowledged, “ *Triumphant* in the *Antiquity* of her
 “ *Foundation*, the Continuance of her
 “ *Ancient Renown*, and the *Glorious*
 “ *Acts* of her *Citizens*: *Triumphant*
 “ in the *Freedom* of her Priviledges,
 “ the *Honourable* Respect shewn her
 “ *Magistrates*, and the *combined*
 “ *Strength* of her *Commonalty*: *Tri-*
 “ *umphant* in the *Prevalency* of her
 “ *Power*, *victorious* Success of her
 “ *Arms*, and *unavoidable* Destruction
 “ of her *Enemies*.” That *she* may ever
 continue secure in an uninterrupted *En-*
 joyment of her just *Rights*, *Liberties*,
Priviledges and *Franchises* is our hearty
 Prayer, and doubtless that of every true
Englishman and well-meaning *Citizen*.

F I N I S.

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